

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

CIVIL ACTION NO. 2:11-cv-0101

\$27,671.50, MORE OR LESS,
IN UNITED STATES CURRENCY,

Defendant.

(Katherine Anne Hoover, and
John F. Tomasic;
No pending federal criminal charges)

UNITED STATES REPLY TO
RESPONSE TO UNITED STATES MOTION FOR A HEARING

Comes now the United States of America, by counsel, Betty A. Pullin, Assistant United States Attorney for the Southern District of West Virginia, and replies to Hoover's and Tomasic's response (Docket #17) as follows:

1. The records that Hoover and Tomasic are referring to are records that were seized from their residence at Lost Creek, West Virginia, on or about March 2, 2010, pursuant to a federal search warrant issued by United States Magistrate Judge James E. Seibert in Case No. 1:10-mj-00009 in the Northern District of West Virginia. Those records were in fact returned by the United States to Hoover and Tomasic through their son on March 7, 2011.

2. The United States concurs with Tomasic and Hoover that the only record seized and in the government's possession as a result of the search warrant, that related to the Wesbanco Savings Account No. XXXXXX3002, was in fact the savings account "passbook." While Hoover and Tomasic's response refers to the passbook in the singular and plural senses, there was only one savings passbook in those records.¹

The other records referenced in their reply, that allegedly were in the same envelope as the passbook, appear to relate to the checking account no. XXXXXX7905, including the statement dated 11-30-04 (which the United States has a copy of and can provide to the court if necessary). These documents are irrelevant as this case involves only the currency seized from passbook savings account no. XXXXXX3002.

3. The passbook does not support Tomasic's and Hoover's allegations that government counsel and FBI Special Agent James Lafferty had knowledge, at the time of seeking the seizure warrant on February 25, 2010² and filing this in rem action on February 11, 2011, that the monies in the account were from a possible legitimate source.

¹Because the copy that Hoover and Tomasic have provided the court shows the pages out of sequence, the United States is attaching hereto and incorporating herein its copy of the passbook with the pages in sequence.

²Case No. 2:10-mj-00029.

Referring to the last page of the passbook (which is on page 3, left-hand column of Hoover's and Tomasic's exhibit), the last entry in the passbook was December 24, 2001. Tomasic and Hoover allege in Docket #15 that they had made a \$5,000 deposit in 2001 which allegedly predated Hoover's involvement with the medical clinic. There is no \$5,000 deposit in 2001.

Tomasic and Hoover state in Docket #8 and #15 that they deposited an alleged gift of \$22,000 from Hoover's parents into the account on March 12, 2004. There are no entries for this deposit in the savings passbook because there are no entries after December 24, 2001.

Furthermore, none of the handwritten entries in the passbook reveal the source of any of the deposits.

4. Hoover and Tomasic admit in their pleadings that the passbook came back into their possession on March 7, 2011. On March 17 and 29, they filed "Verified Motion to Dismiss etc." (Docket #8) and "Motion to Request ... Rule on Perjury Charge" (Docket #15), based on this very passbook, accusing government counsel and Agent Lafferty of having knowledge of the alleged legitimate source of the money in the account and lying to the court. Those allegations are belied by the passbook, which should be dispositive of those allegations.

5. To the extent Hoover and Tomasic are alleging other evidence exists to establish that government counsel and Agent

Lafferty have lied or committed perjury, the United States renews its request for a hearing and for Hoover and Tomasic to be ordered to appear at such hearing and present their evidence.

Respectfully submitted,

UNITED STATES OF AMERICA
By Counsel

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CERTIFICATE OF SERVICE

I hereby certify that the "UNITED STATES REPLY TO RESPONSE TO
UNITED STATES MOTION FOR A HEARING" was electronically filed with
the Court and served on the following, on this 8TH day of April,
2011:

Katherine Anne Hoover, M.D. and
John F. Tomasic
c/o Norman Gay, M.D.
247 West Bay Street
Nassau, N.P. Bahamas
(via Federal Express International)

By: s/Betty A. Pullin
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